

NON-FINAL ACTION

Applicant's amendment of 11-8-07 has been fully considered. The terminal disclaimer has overcome the previous rejection of Obviousness Type Double Patenting. However, in reviewing pending claims, the following issue of 112/2nd is noted.

Claims 1-40, 42-45, 47, 68, 73-87, 89-91 and 95-105 are cancelled.

Claims 88 and 92-94 are withdrawn.

Claims 41, 46, 48-67, 69-72 are pending.

Claim Rejections - 35 USC § 112, Second Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 49-53, 56, and 58-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 49 lacks antecedent basis because it recites variable R_d which represents substituents that should be within the scope of R_a . However, when R_d is "amino", the groups of $-N(R_x)-S(O)_mR_d$ and $-N[S(O)_mR_x]S(O)_mR_d$ are not within the scope of $-LR_a$ in claim 41. Also, since R_d has included group of substituted R_a , the additional substituents on R_d do not fall within the scope of substituted R_a .
- b. Claims 50-53 also lack antecedent basis because they depend on claim 49 and recite R_d as well.

- c. Claim 56 lacks antecedent basis because it depends on claim 55, but recites the limitations of “(5- to 6-membered heteroaryl)C₀₋₄alkyl”, and “(5- to 7-membered heterocycloalkyl)C₀₋₄alkyl” which are not recited for R₃ and R₄ in claims 41 and 55.
- d. Claims 58 and 59 also lack antecedent basis because they depend on claim 41, but recite the limitation of “aminocarbonyl” which is not recited for R₃ and R₄ in claim 41. Claim 60 is rejected as being dependent on claim 59.

Allowable Subject Matter

- 2. Claims 41, 46, 48, 54, 55, 57, 61-67 and 69-72 are allowable because they recite compounds of substituted *pyrido[2,3-d]pyrimidine* with a combination of substituents that introduce limitations to the core of the instant compound that are not taught or fairly suggested by the prior art of record.

Information Disclosure Statement

- 3. The IDS of 11-8-07 has been considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAMTHOM N. TRUONG whose telephone number is (571)272-0676. The examiner can normally be reached on M, T and Th (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1624

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